

REMARKS

Claims 1-4 and 6-29 are pending; new claim 29 is added. The allowance of claims 4 and 6-23 is noted with appreciation.

The provisional obviousness-type double patenting rejection will be addressed should claims in this application be allowed.

Claims 1-3 and 24-28 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,206,694 to Moskowitz et al. It is respectfully submitted that claims 1-3 and 24-28 are not anticipated by Moskowitz.

With respect to claim 1, and claims 2, 3, 23-25, and 29 dependent therefrom, Moskowitz does not disclose a cartridge having an aperture in a beverage flow path linking an inlet to an outlet, where the aperture is bordered by an interface between an inner member and an outer member. As best understood, the Office action is asserting that there are slots formed between elements 66 of Moskowitz. Element 66 is disclosed in Moskowitz as being a circular rim. The Office action, p. 5, further argues that the term "delimit" is to fix the limits or, or set the boundaries. Using that definition, the Office action argues that "since the inner member 64, 66 is in contact with the outer member 24 at all times, and since the aperture includes the slots formed between elements 66, it is therefor delimited by the connection between the inner and outer members." It is understood from this argument that the Office action is asserting that a connection between members 64 and 24 in Moskowitz, remote from slots formed between elements 66, is sufficient to "delimit" the slots. However, the remote connection between members 64 and 24 in Moskowitz does not "border" the aperture. Thus, it is respectfully asserted that claims 1-3, 23-25, and 29 are allowable over Moskowitz.

With respect to claims 26 and 27, Moskowitz does not disclose a pierceable lid closing an open side of an outer member. Instead, Moskowitz discloses a lid 28 that is removable to permit insertion of the coffee 134. The Office action fails to identify such a pierceable lid in Moskowitz.

Application No. 10/763,914
Amendment dated September 17, 2007
Reply to the Office action of April 17, 2007

With respect to claim 28, Moskowitz does not disclose a "filter being fixed in the beverage flow path." Instead, Moskowitz discloses a filter element 108 that is moveable upon rotation of the shaft 60 to compress the coffee 134.

For the foregoing reasons, it is submitted that claims 1-3 and 24-29 are in condition for allowance, and reconsideration and allowance of claims of claims 1-3 and 24-29 are respectfully requested.

The Commissioner is hereby authorized to charge any additional fees which may be required in this application to Deposit Account No. 06-1135.

Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY

Date: September 17, 2007

/Jon A. Birmingham/
Jon A. Birmingham
Registration No. 51,222

FITCH, EVEN, TABIN & FLANNERY
120 S. LaSalle Street, Suite 1600
Chicago, Illinois 60603-3406
Telephone: 312.577.7000
Facsimile: 312.577.7007

489891